

DOCKET NO. 2002-342-W - ORDER NO. 2003-348

[illegible]

Pursuant to the instructions of the Commission's Executive Director, Ralph's published a Notice of Filing in a newspaper of general circulation in the Company's service area, and also furnished a copy of said Notice to each of the Company's customers. Ralph's furnished proof that it had carried out the instructions of the Executive Director. A Petition to Intervene was received from the South Carolina Department of Health and Environmental Control (DHEC).

Accordingly, a hearing on the request was held in the Commission's Hearing Room on April 8, 2003 at 2:30 PM. The Honorable Mignon Clyburn, Chair, presided. Ralph's was represented by Nathaniel Roberson, Esquire. DHEC was represented by Mason A. Summers, Esquire. The Commission Staff was represented by F. David Butler, General Counsel, and Jeffrey M. Nelson, Staff Counsel. Ralph's presented the testimony of Allen Wilson. DHEC presented the testimony of Raymond F. Peterson. The Commission Staff presented the testimony of Sharon G. Scott and William O. Richardson.

II. SUMMARY OF TESTIMONY

Ralph's presented the testimony of Allen Wilson. Wilson stated that he acquired Ralph's in October, 2000 from David Polson. However, no one applied for Commission permission or an order approving the transfer. The water system provides water service to 30 mobile homes. Wilson stated that he charged those customers a flat rate of \$22.00 a month, except for Tri-County Electric Cooperative, which paid \$25.00 per month. Wilson noted that he had now stopped charging rates for the water service. He also stated that he had bacteria in the water. Wilson further noted that to correct the problems with the water system would require installation of a new well and a new tank. Wilson testified that he does not have the funds to bring the water system up to DHEC and Commission standards, and that he has health problems. Accordingly, Wilson requests permission to abandon the system.

Raymond F. Peterson testified for the intervenor DHEC. Peterson is an Environmental Engineer for the Capacity Development Program within the Water

Facilities Permitting Division of DHEC. Peterson noted that the sanitary survey prepared on August 29, 2000 resulted in an overall rating of "Needs Improvement." Peterson stated that a review of the capacity of the system revealed that there was not enough storage and/or well capacity to support the current number of taps. Accordingly, a Preliminary Engineering Report (PER) for the system was required to be submitted to DHEC within ninety days of the issuance of the permit. The Report was not submitted by Ralph's owner. According to Peterson, there are potential health threats that could arise if the system were to operate without a certified operator. For example line breaks are more likely to occur, as well as low pressure, or poor water quality due to improper operation and maintenance of the system. Peterson stated that these occurrences have the potential for causing the introduction of contaminants into the water system. Although there are two wells within a short distance that could potentially be employed to replace the present well, Peterson states that it is unlikely that the wells' owners would agree to provide the necessary water from their wells. Municipal systems are located four to five miles away.

Peterson further testified that an enforcement action against the owner of Ralph's had taken place. In addition, if the system were abandoned, there are only limited alternatives available to the residents. First, the system could be transferred to another owner. Second, the residents may be able to install individual private wells. DHEC states that it opposes abandonment of the system. However, if this Commission chooses to approve the application for abandonment, DHEC recommends that certain conditions be

prescribed. Lastly, DHEC recommends that Mr. Wilson find someone to whom he can transfer the system, if he does not wish to continue to operate it.

Sharon G. Scott, a Staff Auditor, testified on behalf of the Commission Staff. Scott testified that the purpose of the audit was to determine the cash position of the Company for the twelve-month period ended December 31, 2002 in relation to the Company's application for approval to abandon its water system. Scott noted that the Company is not maintaining its records according to the NARUC chart of accounts. Further the Company had no general ledger system. The Company's records consisted of its bank statements, cancelled checks, and customer payment records (cash receipts journal). Since no invoices are being retained by the owner, the Staff was unable to verify any expenses. Further, Staff found that the Company did not deposit all of its revenues in the Company's bank account and did not pay all of the Company's expenses by check. Furthermore, the Company did not have the proper documentation or invoices to support its expenses or proper use of revenues. Although Staff made an attempt to calculate revenues, expenses, and an operating margin, Staff expressed the opinion that the Company has failed to comply with regulations requiring proper records, use of chart of accounts for water companies and the filing of annual reports with the Commission.

William O. Richardson, Chief of the Commission's Water and Wastewater area, also testified. Richardson stated that Ralph's is located in the Southern Pines subdivision in Richland County, near Eastover, South Carolina. The subdivision was developed and the water system was installed by Ralph Rounds around 1971. The system consisted of two wells, a 2,000 gallon ground storage tank and black iron pipe for the distribution

system. One of the wells was abandoned due to some foreign matter in the well casing. The property and water system were bought by David H. Polson in 1991. In 1994, he applied to the Commission for service area and rates. The Commission approved rates in Docket No. 94-629-W, Order No. 95-502, on March 1, 1995. The Commission approved a rate of \$22.00 per month (which included DHEC fees), and a \$40.00 reconnect fee. Allen Wilson acquired the water system in October 2000. Wilson did not apply for approval of a transfer of the system. Further, Mr. Wilson was unable to post a proper performance bond. Richardson noted that there have not been any complaints filed against Ralph's with the Commission's Consumer Services Department.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Ralph's is located in the Southern Pines subdivision in Richland County, near Eastover, South Carolina.
2. The water system consisted of two wells, a 2,000 gallon ground storage tank, and black iron pipe for the distribution system. One of the wells has been abandoned.
3. The water system was installed by Ralph Rounds around 1971. David H. Polson bought the water system in 1991.
4. Polson applied for and was granted approval of the service area and a \$22.00 monthly flat rate to the Company in Order No. 95-502, Docket No. 94-629-W, on March 1, 1995. The Commission also approved a \$40.00 reconnect fee in that Order.

5. Allen Wilson acquired the system in October, 2000. Neither Polson, nor Wilson applied for approval of the transfer of the system to Wilson. Wilson was unable to post a proper performance bond.

6. Abandonment of the system by Wilson is denied. There are no good alternative water sources available to the Company's customers at this time.

7. This Commission holds that a Rule to Show Cause should be issued to David H. Polson to show cause as to why he should not be held responsible for violation of his original certification order as owner of Ralph's for failure to observe and obey the Commission's rules and regulations concerning transfer or sale of any utility system without first obtaining Commission approval as contained in 26 S.C Regs. 103-704.

8. This Commission further holds that the Rule to Show Cause shall also be issued to Allen Wilson to show cause as to why he should not be held responsible for failure to observe and obey the Commission's rules and regulations concerning the acquisition of a utility system or operation of a utility system without first obtaining Commission approval that the acquisition or operation of a utility system is in the public interest and that operation of such utility system is required by the public convenience and necessity.

9. The Commission further holds that the Rule to Show Cause shall also be issued to both Mr. Polson and Mr. Wilson for the Commission to determine the party responsible for utility operations and for the provision of proper and adequate service and as to why either or both should not be held accountable under S.C. Code Ann. Section

58-5-710 for failure to provide proper and adequate service to the customers of the Ralph's Mobile Home Park Water System.

10. We further hold that the transcript of the present proceeding, including all admitted hearing exhibits, shall be included in the record of the Rule to Show Cause proceeding and that Mr. Polson and Mr. Wilson be served with copies of the transcript in order to respond to the issues which led to the issuance of the present Rule to Show Cause.

11. We also hold that the Rule to Show Cause shall be set on as much of an expedited basis as possible, recognizing that both respondents should be advised to file an Answer to the Rule to Show Cause within 30 days following receipt of the Commission's Order and the necessity of 30 days notice of hearing as required by the Administrative Procedures Act.

IV. ORDER


The Commission hereby issues its Rule to Show Cause under the terms and conditions outlined above. The Petition for Abandonment of the system is denied. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Mignon L. Clyburn, Chairman

ATTEST:



Gary E. Walsh, Executive Director
(SEAL)